

**Stafford County  
BOARD OF ZONING APPEALS**

**MINUTES September 26, 2006**

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The regular meeting of the Stafford County Board of Zoning Appeals on Tuesday, September 26, 2006 was called to order with the determination of a quorum at 7:05 p.m. by Chairman Nick Kopchinsky in the Board of Supervisor's Chambers in the Stafford County Government Center. Mr. Kopchinsky introduced the Board members and staff and explained to the public present, the purpose, function and process of the Board of Zoning Appeals. He asked the members of the public who planned to speak at this meeting to please stand and raise their right hand, swearing or affirming to tell the truth.

Mr. Kopchinsky said the By-laws of this Board state that the applicant is allowed up to ten minutes to state their case, the other speakers are allowed up to three minutes to testify, and the applicant is allowed up to three minutes for rebuttal.

**Members Present:** Nick Kopchinsky, Larry Ingalls, John Overbey, Julie Rutledge, Steven Beauch, and Cecelia Kirkman

**Members Absent:** Angelo Amador

**Staff Present:** Rachel Hudson, Deputy Zoning Administrator

**Declarations of Disqualification's:** Mr. Ingalls said case SE06-06 South Abel Investments, LLC is represented by Clark Leming and we work together on different projects. We have not worked together on this project so I will be Able to render a decision on this project.

Ms. Rutledge said case SE06-06 South Abel Investments, LLC is represented by Clark Leming and his firm and my company share clients from time to time. She stated she had not worked on this case and feels she can participate.

Mr. Kopchinsky said he has asked that the Board modify the Agenda to hear the SE06-06 South Abel Investments, LLC case last.

**PUBLIC HEARINGS:**

Ms. Hudson reviewed the following case for the Board.

**SE06-9/2600608 - GROSS DOUGLAS & ELIZABETH A** - Requests a Special Exception per Stafford County Code, Section 28-273, "Nonconforming Structures or Residential Buildings", to allow a second story

addition to an existing nonconforming single family dwelling on Assessor's Parcel 58B-1D-13. The property is Zoned R-1, Suburban Residential, located at 406 Rumford Road, Tylerton Subdivision.

Mr. Kopchinsky asked if the Board had any questions and being none he asked the applicant to step forward.

Ms. Gross, the applicant, stated several months ago she and her husband requested a Variance for an addition to the second story of their non-conforming home that was denied. She stated she is before the Board tonight to request a Special Exception due to the recent Ordinance change by the Stafford County Board of Supervisors. She said the project proposed is a second story addition to their home to add an additional bedroom so their sons can each have their own bedroom. She said this addition would not alter the current footprint of their home and the addition is designed so it would be next to impossible to identify it was not part of an existing structure. She stated all adjacent property owners have already sent a memorandum to the County stating that they concur with the addition. She said she would be happy to answer any questions the Board may have.

Mr. Beauch said he remembers the first time the case was presented and he was impressed the applicant's safety concerns.

Ms. Gross said right now the boys are sharing a bedroom. She said to get to the other bedroom you have to go downstairs, through the kitchen and back up the stairs again.

Ms. Kirkman said looking at the drawings she asked if the other bedroom was over the garage and asked if it was an addition.

Ms. Gross said it was there when they bought the house.

Ms. Kirkman asked if the room over the garage was permitted to be used as a bedroom and Ms. Gross stated yes.

Ms. Kopchinsky asked if there were any further questions.

Mr. Kopchinsky opened the Public Hearing for other comments.

**Proponents:**

Mr. Andrew Tennison, 400 Rumford Road, said he is thankful for the process we have to check the Ordinances out and make sure things are done properly as it protects his property and others. He said after talking to Mr. Gross about the situation he felt he needed to come tonight. He said

Mr. & Mrs. Gross has lived next door to him for ten years and he has been there about thirty-five years. He said Mr. & Mrs. Gross are good people; good parents and hopes the Board approves their request. He said it is hard to find good neighbors and he would hate to lose them because they needed more space when they could get it with the addition request. He said he is very much in favor of the request.

**Opponents:** None

Mr. Kopchinsky gave the applicant a final opportunity to speak.

Mr. Kopchinsky closed the public hearing.

**Motion:**

Mr. Ingalls said he moves that the Board grant the request for a Special Exception to construct a second story addition over a portion of the exiting single family dwelling in case SE06-9 project 2600608 applicants Douglas and Elizabeth Gross.

Mr. Overbey seconded the motion.

Mr. Kopchinsky asked if there would be any discussion.

Mr. Ingalls said he made the motion because he feels this case is a classic example of what we are trying to accomplish by allowing Special Exceptions in this type of case. He said this is a house built prior to any zoning in the County and it is a nice residential neighborhood. He said that neighborhood will stay residential according to the comprehensive plan and he believes it meets all the criteria to grant a Special Exception.

Mr. Kopchinsky said the motion is to approve the request for Special Exception to add the second story addition, which does not change the footprint of the property or increase the non-conformity in accordance with amendment of Ordinance O06-58.

**Vote:**

Motion to approve 6-0

Mr. Ingalls – yes

Mr. Kopchinsky – yes

Mr. Overbey – yes

Ms. Rutledge – yes

Ms. Kirkman – yes

Mr. Beauch – yes

Mr. Kopchinsky said it was stated at the beginning of the meeting that anybody not agreeing with the decision of this Board can appeal to the Stafford County Circuit Court within thirty days. He informed Ms. Gross they should keep that in mind when you start construction if they are going to start right away.

Ms. Hudson reviewed the following case for the Board.

**SE06-10/2600611 - FLETCHER GERALDINE W** - Requests a Special Exception per Stafford County Code, Section 28-35, Table 3.1, "District Uses & Standards", R-1, Suburban Residential, to allow a salon as a Home Business on Assessor's Parcel 54L-20-236. The property

is zoned R-1, Suburban Residential, and is located at 1700 Sherwood Drive, Grafton Village Subdivision.

Mr. Kopchinsky asked if there are questions for staff.

Mr. Kopchinsky asked if the applicant or representative present? Mr. Kopchinsky asked Ms. Hudson if she had heard anything from the applicant and she stated she had not.

Mr. Kopchinsky stated he would hold this case until the end and proceed to the next case if we can have the people involved back in the chambers.

Ms. Hudson reviewed the following case for the Board and introduced Mr. Steve Hubble, Environmental Division Manager to present the staff report.

**SE06-6/2600530 - SOUTH ABEL INVESTMENTS, LLC** - Requests a Special Exception per Stafford County Code, Section 28-57(h)(3)a, "Permitted Uses in the Floodway District", to allow the construction of re-alignment of Hulls Chapel Road on Assessor's Parcel 37-42C. The property is Zoned A-1, Agricultural, located in the area of the proposed Staffordshire subdivision.

Mr. Hubble introduced Paul Santay, who is new to Code Administration, you will soon be seeing his face here instead of mine, and I hope you will be as gracious to him as you have been to me.

Mr. Hubble said the applicant is requesting a Special Exception to construct two road culvert crossings across Hazel Run and Tributary to Hazel Run within the Floodway District as required by Section 28-57(h)(3)(a). The proposed road crossings are part of the development plan for the proposed Staffordshire subdivision. The road culvert crossings are located on Assessor's Parcel 37-11 along Hazel Run and Assessor's Parcel 37-42C along the Tributary to Hazel Run. The 100-year floodplain for Hazel Run and Tributary to Hazel Run was mapped by approximate methods and is identified as Zone A on the effective Flood Insurance Rate Map Panel # 510154 0140E dated February 4, 2005. The applicant proposes to construct two road culvert crossings for the realigned Hulls Chapel Road. The applicants engineer prepared a flood study that established the 100-year Base Flood Elevation, the location of the floodway and evaluated the proposed encroachments. Since the proposed encroachments extend into the floodway, a Special Exception is required.

The flood plain study was reviewed by Code Administration staff, GKY, and Associates (County plan review consultant). The construction of the northern road culvert crossing on Hazel Run causes a maximum .9 ft increase in the base flood elevation. The construction of the southern road culvert crossing on Tributary to Hazel Run causes a maximum .8 ft increase in the base flood elevation. Since the proposed encroachments are located in an Approximate (Zone A) floodplain area and the increase in flood elevation is less than 1 foot, no Conditional Letter of Map Revision (CLOMR) is required by FEMA or recommended by staff. However, it is recommended that a Letter of Map Revision (LOMR) based on the as-built conditions be obtained after construction is completed.

Should the Board of Zoning Appeals approve this application, staff recommends that the following conditions be added to the Special Exception.

1. Obtain all applicable Federal, State and County permits and authorizations for stream encroachment, water quality, wetlands, land disturbance, and Chesapeake Bay Preservation Area overlay district requirements.
2. Obtain a Letter of Map Revision (LOMR) based on the as-built conditions of the road culvert crossings after construction is completed.
3. Obtain easements for any increases in the base flood elevations on offsite properties.

Mr. Kopchinsky asked the Board if they had any questions of staff.

Ms. Kirkman asked as currently constructed how many creek crossings does the road have.

Mr. Hubble said he believes it has two.

Ms. Kirkman said to Ms. Hudson that she did not see a subdivision plat in the packet.

Ms. Hudson said it was in your last month's packet and Ms. Kirkman said she did not see it.

Ms. Kirkman asked to see a copy of the subdivision plat.

Ms. Rutledge said in our packets we have a proposed Staffordshire subdivision road culvert crossing that has the conditions that you just stated. She said we also have an executive summary for Staffordshire subdivision Special Exceptions and that has different conditions.

Mr. Hubble said his recommended conditions were the three that he read and said he did not prepare that aspect of it.

Ms. Rutledge said there are two different tax map parcel numbers listed 37-11 and 37-42C. She said the application in our packet is only for 37-42C.

Mr. Hubble said there are two County owned parcels 11 and 42C that are in play. He said from what he can tell the tax map lines seem to be unclear.

Ms. Rutledge said we only advertised for the 37-42C.

Mr. Hubble said it sort of straddles both and unclear to what extent what is located on each one.

Mr. Ingalls said the hundred-year flood elevation, did Abel Lake not have one.

Mr. Hubble said Abel Lake was approximate also and he assumes they used that as a starting point. He said it was not on the FEMA map, but he is sure they have established what the hundred year flood elevation is.

Mr. Kopchinsky said your third condition was to obtain easements for increases in the base flood elevation on off-site properties. He asked are the increases affecting off-site properties.

Mr. Hubble said he would let the applicant answer that in detail.

Mr. Kopchinsky asked Mr. Hubble if he was aware of the County granting any easements.

Mr. Hubble said he believes the applicant can best address that.

Mr. Kopchinsky said you are County staff how can the applicant tell me what the County is going to do.

Mr. Hubble said he is not the one that grants the easements and believes the Board of Supervisors has to grant that easement.

Ms. Kirkman asked if that action had been taken.

Mr. Hubble said he had been told it has not.

Mr. Kopchinsky asked if the Board had any questions and being none, he asked the applicant to step forward.

Debrarae Karnes of Leming & Healy representing the applicant. She stated staff has done a wonderful job of explaining the case to you. She said when the Planning Commission approved the preliminary subdivision plan back in 1991 when this subdivision was first approved by the County. She said the applicant had agreed to pay a lump sum cash amount to be used for improvement of the road. She said in 2004 it was felt that the lump sum would not really go so far as to make these road improvements and instead the applicant agreed to make the improvements. She said this would bring the road up to VDOT standard and making it better for the surrounding community. She said you have heard about the two culverts proposed to be installed; you have heard they are not going to increase the flood level by more than a foot. She said the impact on the surrounding property owners would be minimal. She said she would let Larry Caruthers address that further showing you a graphic showing exactly what is going to happen.

Mr. Kopchinsky said procedurally I do not have an owners consent form in my packet. He asked if there was a representative of the owner present who can authorize the firm of Leming and Healey to speak for them.

Mr. Richard Ward came forward and stated he is one of the owners.

Ms. Kirkman asked if they needed consent from all the owners and Mr. Kopchinsky said they have only required one in the past.

Mr. Kopchinsky recognized Mr. Ward and Mr. Ward stated he has/is giving Mr. Leming permission to represent him and his company.

Ms. Karnes said if the Board had any questions, she could address those or Mr. Caruthers could come foreword with his presentation.

Mr. Ingalls asked Ms. Karnes if she voted for this subdivision when she was on the Planning Commission.

Ms. Karnes said this is her third week with this law firm and one of the things she has to do with each case is to look at it to see if she has a conflict. She said she did not take any discretionary voting action on this but vote on and administerial decision to advance this case because the preliminary subdivision plan met each of the minimum standards of the County subdivision Ordinance.

Ms. Kirkman said so she could understand what all that meant; the answer is yes you did vote on it.

Ms. Karnes said she did vote and I do not feel I have a conflict.

Mr. Caruthers a professional engineer with ATCS and said he understands the Board has some questions.

Mr. Kopchinsky said he would like to have Mr. Ward come back up to tell the Board that Mr. Caruthers is also representing him.

Mr. Ward said yes Mr. Chairman Mr. Caruthers is my engineer of record and he is representing me as well as Mr. Leming's firm.

Mr. Kopchinsky said you heard my question earlier about off-site increases and the need for easements. He said my question remains and are there any and who do we have to get the easements form. He said Ms. Kirkman was bringing up earlier that in some cases, we have had either letters or preliminary information saying we have already contacted and/or they have already agreed to this.

Mr. Caruthers said what they have are two road crossings as staff has already pointed out. He said there is .8 increase on one and .9 increase on the other. He pointed to a map and said this line is still on the Board of Supervisors property 42C, so it would be just the Board of Supervisors that the encroachment would occur as well as this parcel.

Mr. Kopchinsky said it was his understanding that the need for this realignment comes from where.

Mr. Caruthers said it comes from the approved preliminary, the GDP before the rezoning application in 1991 shows the realignment of that road. He pointed to the visual drawing showing the curves that would not meet VDOT standards for the design speed for the road being relocated. He said the preliminary plan shows the realignment of the road and the general alignment of the road being proposed.

Mr. Ingalls asked what the road elevation at number two crossing was.

Mr. Caruthers asked the road grade of the proposed road. He said this is a cross section of the two crossings; the four-barrel crossing, which has been labeled, crossing number one, is closest to the subdivision elevation and is about 163 or 1/62. He said the crossing as you come right to left would be the triple barrel culvert is approximately the same elevation but slightly higher about 164.

Mr. Ingalls said after seeing the map the low spot is not over each of the culverts it is somewhere in the middle and what is the elevation there.

Mr. Caruthers said about 162.5.

Mr. Ingalls said the flood elevation of Abel Lake is listed at 160.1 so it would be approximately two feet above. He said did you establish that by computation or did you do any historical work to know that is an accurate number.

Mr. Caruthers said they did do some background research to find any historical information. He said they checked with Stafford County Utilities to find out if they had any data that would be field data supporting a flood elevation. He said they did go all the way back and obtains original copies of the design for the dam from the Conservation Service and we have a copy of that document. He said that document says they had run models of the dam under different flood conditions. He said they determined data by computation to be more specific but they did a probable maximum flood, which was above the 100-year event.

Mr. Ingalls asked if theirs was higher or lower.

Mr. Caruthers said it is higher.

Mr. Ingalls said so they think it would be higher than what you say.

Mr. Caruthers said yes, and that is the probable maximum flood and worse case of 1,000-year event, we had to put it in terms of frequency. He said they did it for different reasons than we did and we were basing ours on requirements specified by FEMA for a different flooding event and for VDOT who we would have to submit our calculations, which we have done for VDOT and the County.

Mr. Overbey said is the current Hulls Chapel road going to be abandoned, what happens to the existing road, and he understands there are some culverts there.

Mr. Caruthers said the ultimate existence of the road he is not sure of at this point. He said they are in the process now of going through the design with VDOT and County staff and going through that review. He said there are two culverts on the road located downstream from where the crossings are proposed. He said there are two box culverts; one is 6x9 and the other roughly the same size about a 5x10 culvert. He said he did not know if anyone had made the decision of it being abandoned in place or demolished.

Mr. Overbey asked who owns that property.



Mr. Caruthers said it is on the road on the Stafford County property, the two crossings and the existing crossings.

Mr. Kirkman asked if Mr. Caruthers could explain why this realignment is needed.

Mr. Caruthers said they are designing this roadway to current standards meeting the design speed of 30 mph with roughly 300-foot minimum radius and so, the alignment of the road as it currently exists would not meet that standard. He said the current would not meet the standard vertically. He said the existing road crossing down by Abel Lake is about ten feet below flood stage, so they would be flooded by about ten feet of a hundred year event. He said they would have to be raised up to bring them out of that flood elevation which would be more of an impact down by the reservoir itself.

Ms. Kirkman asked Mr. Caruthers to tell her if the road crossings lead to any increase in the flood elevation.

Mr. Caruthers said it is about .8 increases on the up streamside on both crossings and .9 on culvert number one.

Ms. Kirkman said so it will lead to some increase.

Mr. Caruthers said yes, less than a foot on the up streamside.

Ms. Kirkman said her next question is in order to put a road through creeks in a CPRA there has to be a finding that there is no other alternative. She asked if they had obtained that finding.

Mr. Caruthers said they have submitted the drawings and no comments have come back on that issue.

Ms. Kirkman said, so you have not obtained any kind document.

Mr. Caruthers said he did not know if the water impact study, if that is the document you are referring to has been submitted.

Ms. Kirkman said it has to do with the Chesapeake Bay regulations 28-62 in order to put a road through a creek there has to be certain findings on the part of the administrator for that to go forward, have those findings been made.

Ms. Rutledge asked if this issue is something within the jurisdiction of the BZA, and she thinks that it is more in the jurisdiction of a preliminary subdivision plan.

Mr. Caruthers said construction drawings, and the permitting process.

Ms. Rutledge said we are here to decide on the Special Exception.

Ms. Kirkman said Ms. Rutledge you are certainly welcome to decide what information you need to make a decision, I would like to know whether or not the administrators made these findings.

Mr. Caruthers said to his knowledge he did not think they have been done. He said obviously it is information forth coming.

Mr. Ingalls said when I asked does this flood get on any other property your answer was not clear and this drawing is of poor quality when trying to decide property lines. He said it appears that the new flood elevation does touch some property other than yours or other than the County's.

Mr. Caruthers said it touches one other property, which would be parcel 16. He said he did not have the property lines with him to determine the line. He said if it encroaches on parcel 16, they would get the necessary easements.

Mr. Ingalls said maybe they do not want to give the easement.

Mr. Kopchinsky said if the condition was they needed to obtain the easements than they would probably would not have met the requirements of any Special Exception that might be granted here.

Ms. Karnes said Mr. Chairman you have summarized it well. She said the condition says they must get easements from any property owner affected and if the owner chooses not to give it, it cannot go forward.

Ms. Karnes said in short we ask that you approve this tonight; it is compatible with the neighborhood it impacts just a little less than one foot.

Mr. Kopchinsky opened the Public Hearing for other comments.

**Opponents:** None

**Proponents:** None

Mr. Kopchinsky informed the applicant they had up to three more minutes to add any additional comments.

Ms. Karnes said she did not want to take longer than the Board needs to understand the facts of the case. She said the Board asked excellent questions and they recommend this be approved tonight. Thank you.

Mr. Kopchinsky closed the Public Hearing for motion, discussion and decision.

**Motion:**

Ms. Rutledge made the motion that the Board approves case SE06-6/2600530 with the three stated conditions and in the proposed Staffordshire road culvert crossing.

Mr. Beauch seconded the motion.

Ms. Rutledge said she made the motion because she feels that there is none to minimal impact in the flood elevation that this case meets the standards as required for Special Exceptions. She said this is part of a subdivision preliminary plan that has already been approved by the County and that is the reason why she made the motion.

Mr. Beauch said he seconded the motion because it is necessary for the subdivision, but also because it seems they have done everything they can to mitigate the water increase. He said and because of the requirement that you obtain the easement. He said he believes obtaining the easement is absolutely necessary.

Mr. Ingalls said he has a problem approving something that may backup water, which he is still not sure if it does or does not. He said the applicant did not come forward with any real definite answers one way or the other, it might be a little bit and it might not. He said that we are going to approve something that is going to cause the flooding on somebody else's property other than the applicant, expect that person to give or not give an easement and if they do not give the easement what do, we do. He said will take that property, condemn it or the County condemn it because they need it for this road. He said he is a little concerned about that. He said the applicant could not answer his question and he did not feel he could vote affirmative on it not knowing for sure what is going on. He said if they back-up water on adjacent parcels, can lower the flood, they can put another culvert in and it would go down, you can get it off of them if need be. He said he was prepared to approve but feels uncomfortable approving something that would affect property outside of the applicants. He said that it is one of key issues we have asked anybody that has come here and they say they are not going to back water off their own property or they already have easements in hand or some documents in hand that everybody is in agreement with this thing. He said here we are coming in with backing water-up on somebody's property and not expecting them to have any say. He said he was not going to support the motion as it now stands.

Ms. Kirkman said she was going to oppose the motion. She said our Ordinance is very clear in Section 28-57 section (h)(1), it states that permitted use of roads is only to the extent that it would not result in any increase in the 100 year flood elevation. She said the applicant has stated it will lead to some increase in the flood elevation and that is the first reason she is going to oppose it. She said the second reason she was going to oppose it, is it is not at all clear that this plan is feasible because we do not have any consent from property owners that will be affected by it, we also do not apparently have finding from the administrator that this meets the requirements of 28-62 the CBA and finally I am concerned that there may be a procedural error regarding the advertising regarding which lots this actually covers. She said for those three reasons she is going to oppose the motion.

Mr. Kopchinsky said from his perspective the County has reviewed this. He said the Ordinance and we have had this discussion before, states in one place, no increase in the 100 year flood elevation and another place however, if it is going to increase you can get a Special Exception by going through the proper procedures, upon getting this Special Exception and submitting as built drawings, you do the letter of map revision which than no longer shows that as having been an increase in the 100 year flood plain because the 100 year flood plain gets adjusted based on the letter of map revision. He said at that point there is no increase and it meets all the County Ordinances. He said the County staff has recommended both that all applicable permits and

authorizations for stream encroachments and water quality be met. He said the Chesapeake Bay Preservation area overlay district requirements must be met. He said therefore if they are not and even if this is approved they cannot go forward without perhaps doing some of the things Mr. Ingalls and Ms. Kirkman have talked about. He said it states in the motion that the applicant will have to obtain easements for any increase in base flood elevations on off-site properties, whether that is the County property or the other potential one. He said if they have not done, their homework I would assume that and I would trust that the County staff in reviewing the final plans, and before approving the construction would assure that all of these requirements are met. Therefore, I believe I can support the motion with the conditions as specified by County staff.

Ms. Kirkman said the one thing she would like to point out is that the same part of the Ordinance in Section 2(b) it states, that should there be any conflict between the provisions of the Ordinance the more restrictive provision should apply. She said in terms of the fact there are conflicts in the code, it is very clear the more restrictive construction applies. She said in that instance the more restrictive construction is that there should be no elevation in the flood plain.

Mr. Kopchinsky thanked Ms. Kirkman for her opinion.

Ms. Rutledge said she would consider amending the motion if Mr. Ingalls would assist with it for item number three, obtain easements for any increases in the base flood elevation to include an impact study of the adjacent parcels so we know exactly how the culverts are going to impact adjacent landowners.

Mr. Kopchinsky said if they did that, it would not be whether we know it or not, it would go to the planning staff and in their plans. He said he did not know if you are talking about the water quality impact study or what are you actually talking about. He said the water quality impact assessment is part of the Chesapeake Bay requirements.

Ms. Rutledge said she was talking about, are the culverts going to create a flood on the adjacent landowners, what impact, if it is detrimental and if the landowner does not want it then the Special Exception would not go forward.

Mr. Kopchinsky said if they do not sign the easement then they cannot proceed until they get the easement or do some other process.

Ms. Rutledge said her point is that Mr. Ingalls raised the issue that he did not have the knowledge or information on which parcels would be impacted and require easements.

Ms. Kirkman said she did not understand the point of doing a study that we would not be able to consider the results of in our decision making process.

Ms. Rutledge said it would determine if the Special Exception proceeds forward.

Mr. Kopchinsky said on obtaining of easements-

Ms. Kirkman said so you are saying if-

Ms. Rutledge said if the easement landowner does not know the impact of the flood on his land how could he make a decision as to whether to grant the easement.

Mr. Kopchinsky said the landowner could require anything he wanted. He said he thinks the County is going to check out anything that is submitted and make sure that anybody that is affected is aware of it.

Ms. Kirkman said I do not think there are any notification requirements to that extent, not that she is aware of.

Mr. Hubble said he would like to add to keep in mind that what is shown on the FEMA map is an approximate flood plain and what that means is based on no elevation. He said typically when you have an approximate flood plain and then you do a detailed study, it shrinks the size of the flood plain down and aligns it to an elevation. He said the flood plain of the adjacent property owner may show whether it causes an increase or not. He said it is going to be smaller because we have better information to tell where that boundary is. He said, on notification, during the letter of map revision process with FEMA that off-site property owners are notified the because the federal process has a built in notification period. He said upstream property owners have to consent to what is going on. He said if they do not consent, they have to submit technical proof to refute what is submitted.

Ms. Kirkman asked Mr. Hubble to clarify; she also heard there are some other calculations that were done that actually seem to indicate that the flood elevation would be greater.

Mr. Hubble said there are two types of flood plains, detailed study, approximate, and on the detailed study, that is where FEMA has gone in an established what an elevation is, on an approximate they have just drawn a line on a map that says where they think it is going it to be. He said the County requires that a development project, that has an approximate floodplain the engineer must give a detailed location of what the flood elevation is, an engineer calculated what the flood elevation was for the creek and said it is 100 for example and said ok we are going to build a bridge there, what impact does that have. He said in this case it has a .9 or .8 foot increase. He said the point he was trying to make earlier is that even with a .9 foot increase the approximate flood plain that is on the FEMA map which is what that property owner would be dealing with today, is likely greater than the actual flood elevation or before or after the bridge is installed.

Ms. Rutledge said is that why on the application it says it has an elevation of zero? She said, you say that it increases by .9 and .8.

Mr. Hubble said that is getting into the upstream and downstream of the culvert and sometimes, you have increases on both sides and in this case, you only have increases on the upstream side.

**Vote:**

Motion to approve – 4-2

Mr. Ingalls – no

Mr. Kopchinsky – yes  
Mr. Overbey – yes  
Ms. Rutledge –yes  
Ms. Kirkman – no  
Mr. Beauch - yes

Mr. Kopchinsky asked if there was anyone representing Ms. Fletcher in the audience.

Mr. Overbey said he would make a motion to table SE06-10/2600611 until our October meeting.

Ms. Rutledge seconded the motion.

Mr. Ingalls said he assumes County staff will notify the applicant.

Mr. Kopchinsky said he has a motion to table SE06-10/2600610 by Ms. Rutledge and seconded by Mr. Overbey.

**Vote:**

Motion to table – 6-0

Mr. Ingalls – yes  
Mr. Kopchinsky – yes  
Mr. Overbey – yes  
Ms. Rutledge –yes  
Ms. Kirkman – yes  
Mr. Beauch - yes

OTHER BUSINESS

Ms. Kirkman asked what has happened with the Rocky Pen application that was urgent.

Mr. Kopchinsky asked Ms. Hudson if she knew what the status was on that case.

Ms. Hudson said as far as she knows they are on the agenda for next month.

REPORT BY DEPUTY ZONING ADMINISTRATOR

Mr. Kopchinsky asked Ms. Hudson if she had heard anything more about the Gross appeal from the court and she said she had not.

Mr. Kopchinsky asked if staff wanted to comment on the information passed on to the Board on e-mails or FOIA and Ms. Hudson said no.

ADOPTION OF MINUTES

July 25, 2006

Ms. Kirkman made the motion to approve the July 25, 2006 minutes.

Mr. Ingalls seconded the motion.

**Motion:**

**Vote: 5-0**

Motion to approve – 5-0

Mr. Ingalls – yes

Mr. Kopchinsky – yes

Mr. Overbey – yes

Ms. Rutledge – yes

Ms. Kirkman – yes

August 22, 2006

Mr. Kopchinsky said he has two very minor pen change corrections on page 3 the third actual paragraph (Ms. Hudson said adjacent property owners were sent notification) Mr. Kopchinsky asked if the new Ordinance on ownership *was or is* applicable and that is all I had.

Ms. Rutledge made the motion to approve the August 22, 2006 minutes.

Mr. Beauch seconded the motion.

**Motion:**

**Vote: 6-0**

Motion to approve – 5-0

Mr. Ingalls – yes

Mr. Kopchinsky – yes

Mr. Overbey – yes

Ms. Rutledge – yes

Ms. Kirkman – yes

Mr. Beauch - yes

Mr. Kopchinsky asked if there was any further business. He said the Board might start thinking if they want to get together in December for the Holiday and if they want to schedule a meeting for December.

Mr. Kopchinsky said Wanda passed out an extract of the State Code and it has to do with reviews and decisions of the Board and he was thinking it had something to do with the Gross case.

Ms. Hudson said she recalled talking to the County Attorney office about that because there was a concern in the office that the case appealed by Gross had picked up their building permit. She said this Code applies to that.

Mr. Kopchinsky said he mentioned last meeting he had talked to the County Attorney's office about the resolution required to enter a closed meeting, resolution, and certification when we come out. He said he has been provided with the information, should this occur we would ask the Secretary to formally prepare these forms with what the reason and certification of what we discussed in the closed session.

Ms. Rutledge asked if the paperwork needed to be included in the by-laws.

Mr. Kopchinsky said no.

Mr. Overbey said the only question he would raise is under what circumstances do we go to a closed meeting.

Ms. Kirkman said those are outlined in the statute.

Mr. Kopchinsky said primarily legal matters like if we need an attorney or selecting an attorney.

Ms. Kirkman said for instance we had hired an attorney and we wanted to hear what his/her opinion was to advise us.

Ms. Kirkman said Ms. Hudson in preparing for the meeting I noticed the copy of the Zoning Ordinance I have is dated 2005.

Ms. Hudson said she tries to give the Board copies of the Ordinances that have been approved and we just ordered new books.

Mr. Kopchinsky said we receive amendments all the time and have to put them in their books. He said as far as he knows there is no requirement that new books be printed in a given time even though he knows staff tries to do it on a regular basis.

Ms. Hudson said it is up to municipal code when they decide to update and they have. She said she has asked that they be ordered for the Board.

Mr. Kopchinsky said when you get the new books it would be a good idea to compare the two because in the past there have been amendments we were not aware of.

## ADJOURNMENT

Mr. Beauch made the motion to adjourn. Ms. Rutledge seconded the motion.

### **Vote:**

Motion carried 6-0



Mr. Kopchinsky – yes

Mr. Beauch – yes

Mr. Overbey – yes

Mr. Ingalls – yes

Ms. Rutledge – yes

Ms. Kirkman - yes

Meeting Adjourned at 8:06 p.m.

WLD

Approved: \_\_\_\_\_ Date: \_\_\_\_\_  
Rachel T. Hudson, Deputy Zoning Administrator